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Attorneys for Defendant, CITY OF SAN JOSE

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HORTA, LLC, a Delaware limited liability  
company,

Plaintiff,

v.

CITY OF SAN JOSE, a municipal  
corporation,

Defendant.

CASE NO. C02-04086 JF (RS)

[Related Case Nos. C00-20018 JF  
and C05-03778JF]

**STIPULATION AND [PROPOSED]  
ORDER REGARDING MOTION FOR  
ATTORNEY'S FEES**

Date: February 1, 2008  
Time: 9:00 A.M.  
Courtroom: 3  
Judge: Hon. Jeremy Fogel

**STIPULATION**

WHEREAS, Plaintiff Horta, LLC (hereinafter "Horta") has filed an amended motion for attorney's fees herein;

WHEREAS, the motion was continued at the request of the City of San Jose ("City"), in order to permit the City to obtain and submit expert testimony;

1 WHEREAS, in light of the expert testimony submitted by the City, Horta, LLC, now  
2 requires additional time in order to locate an expert and respond to the testimony submitted  
3 by the City; and

4 WHEREAS, a continuance of the reply and hearing dates is therefore required;

5 The parties hereto agree that:

- 6 (1) The hearing on the Motion to for Attorney's Fees should be continued to  
7 February 29, 2008;  
8 (2) Horta's reply shall be due on February 15, 2008;  
9 (3) If requested, the parties will agree to depositions of their respective experts and  
10 to a reasonable continuance of the hearing date; and  
11 (4) If requested, the City shall be entitled to submit a written Surreply limited to  
12 responding to the expert testimony submitted on behalf of Horta, and Horta  
13 shall be entitled to submit a written response to the City's Surreply.  
14

15 Dated: January 16, 2008

SHEPPARD MULLIN RICHTER & HAMPTON LLP

17 By: James M. Chadwick  
18 JAMES CHADWICK, Esq.  
Attorneys for Plaintiff HORTA, LLC  
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20 Dated: January 16, 2008

RICHARD DOYLE, City Attorney

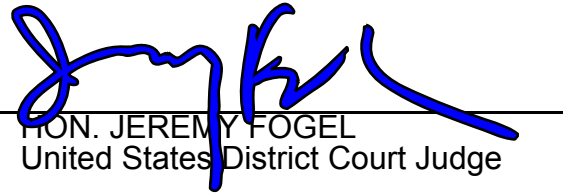
22 By: /s/  
23 NORA FRIMANN, Chief Trial Attorney  
JOSEPH DiCIUCCIO, Sr. Dep. City Atty  
Attorneys for Defendant, CITY OF SAN JOSE  
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**ORDER**

Pursuant to the stipulation, and good cause appearing therefore, IT IS SO ORDERED.

- (1) The hearing on the Motion for Attorney's Fees should be continued to February 29, 2008;
- (2) The parties shall inform the Court if a settlement of the attorney's fees issue is reached prior to the hearing date; and
- (3) The parties shall inform the Court if any further continuance of the hearing or briefing dates is required.

Dated: January 24, 2008

  
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HON. JEREMY FOGEL  
United States District Court Judge